

U.S. West Communications, Inc., Petitioner and Order of Repeatermen & Toll Testboardmen, Local 1011, International Brotherhood of Electrical Workers, AFL-CIO, Intervenor and Communications Workers of America, AFL-CIO, Party in Interest. Case 27-UC-128

March 26, 1993

ORDER DENYING REVIEW

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel. After careful consideration, the Board has decided to deny the Intervenor's request for review of the Regional Director's Decision and Order (pertinent portions are attached). We agree with the Regional Director that the Employer's reorganization and continuing technological changes have eliminated the separate identity of the employees represented by ORTT. Accordingly, these employees were properly accreted into the bargaining unit represented by CWA. The Intervenor's request for a stay of the implementation of the Regional Director's decision is also denied.

MEMBER DEVANEY, dissenting.

I would grant the Intervenor's request for review on the issue of whether the employees represented by ORTT have been accreted into the unit of employees represented by CWA.

APPENDIX

REGIONAL DIRECTOR'S DECISION AND ORDER

4. The Employer, a Colorado corporation with headquarters in Denver, Colorado, provides telecommunications services throughout 14 States. Pursuant to a court approved settlement in 1984, A T & T divested itself of 23 telephone operating companies. The Employer was formed as the result of the consolidation of three of the companies: Pacific Northwest Bell, Northwestern Bell, and Mountain States Telephone. Mountain States provided telephone services in Southern Idaho, Montana, Wyoming, Utah, Colorado, Arizona, and New Mexico. Northwestern Bell serviced North and South Dakota, Nebraska, Iowa, and Minnesota. Pacific Bell covered Washington, Oregon, and Northern Idaho.

Prior to the formation of the Employer, each of the three operating companies maintained its own corporate and administrative structure and its own operational and administrative policies.

For a number of years the Employer and its three predecessor companies have had collective-bargaining agreements with the Communications Workers of America (CWA), the International Brotherhood of Electrical Workers, and the Order of Repeatermen and Toll Testboardmen (ORTT), Local 111, IBEW. The last agreement between ORTT and the Employer expired on August 15, 1992. Currently, IBEW represents all employees in the state of Montana with the ex-

ception of a few clericals who are represented by the CWA. CWA represents some 35,000 employees throughout the 14 state area of the Company. ORTT represents approximately 500 employees in Washington, Oregon, and Northern Idaho in the job classifications of communication technician, antenna technician, and power technician—Oregon.

The Employer filed this unit clarification petition seeking to accrete the employees represented by ORTT into the unit of employees represented by CWA. The Employer maintains that as a result of technological, organizational, and administrative changes, the ORTT represented employees have ceased to be a viable separate unit and now share a community of interest with the CWA represented employees to such an extent that they should be included in the near system wide CWA represented unit.

ORTT maintains that the unit it represents continues to exist as a separate identifiable unit of employees performing historically distinct work, and should not be accreted into the CWA represented unit of employees. The Montana statewide unit employees represented by IBEW is not at issue in this proceeding.

Unlike most of the other Bell operating companies, Pacific Northwest Bell owned, operated and maintained the long distance or "toll" equipment and facilities. A T & T Long Lines provided this service for most of the other Bell operating companies.

Historically, ORTT has represented those employees of Pacific Northwest Bell who were generally engaged in providing and maintaining long distance or toll telephone transmission work. Board certification of ORTT and collective-bargaining agreements between ORTT and Pacific Northwest Bell for "toll" employees date back to the late 1940s. CWA has, during this period of time, represented Pacific Northwest Bell employees engaged in providing and maintaining local exchange telephone transmission.

At the time of certification and for some time thereafter, each group required specialized training in their own area of work as the technology differed. Local exchange employees represented by CWA did not work on toll equipment and toll employees represented by ORTT did not perform Local exchange work.

Telephone technology has developed so that equipment no longer is dedicated solely to either local or toll transmission and the technology has ceased to distinguish toll from local transmissions. Technology has progressed from telephone transmission by vacuum tubes, to transistors, to computer digital technology to, most recently, the use of fiber optics, which are capable of transmitting many times more messages than previously allowed with old technology. New technology allows for remote testing whereas previously testing had to take place in locations physically near the equipment being tested. Toll and local technology have merged into a single transmission technology. The Union admits as much by stating the technological distinctions which had previously existed between toll and local exchange equipment has been "largely obscured."

The merging of the two technologies has made it increasingly difficult to determine whether the nature of the work to be reformed is that of toll or local. As a result, jurisdictional disputes have arisen between ORTT and CWA. In the early 1980s, CWA and the Employer entered into an agreement meant to resolve these disputes. Continued techno-

logical advancement, however, further blurred the distinction between "toll and local work" leading to further assignment disputes between the two union.

In facilities where ORTT represented employees work, the Employer must now engage in an additional operations step to determine whether the work is of a toll or local nature in order to assign work to the proper union. In all other States serviced by the Employer, such an additional step is unnecessary. Technicians represented by CWA, and those represented by IBEW in Montana, perform all work regardless of its nature, toll or local. The work performed throughout the Employer's 14-state area in its Circuit Provisioning Centers, Central Offices, and in its Business Customer Service Centers is identical. CWA technicians in other cities can and do perform the work performed by ORTT represented technicians. The presence of two unions in the Northwest leads to an artificial division of work. Indeed, the technology exists so that testing functions performed by ORTT represented employees can be performed remotely by CWA represented employees in any of the other states.

In some of the employer facilities, ORTT and CWA represented employees work in the same building, on the same floor, and/or side by side. They use the same personal tools and testing equipment. In some cases, they have common supervision at the first or second level.

With the merger of the three telephone companies, the Employer has a uniform operation throughout the 14-state service area. Its management, administration, marketing, and operational policies are developed and applied uniformly. A single human resource department controls centralized personnel and labor relation functions. It has a single accounting and payroll procedure. Training is centralized and uniform throughout the service area.

The two collective-bargaining agreements have some differing provisions. Nevertheless, both ORTT and CWA represented employees share common working conditions to a significant degree. The various benefit plans, EEO and affirmative action policies, transfer policies, vacations, holidays, seniority, and stock option plans are identical. The administrative, locker, and lunch room areas are common to both sets of employees.

As is the case here, most public utilities have a highly integrated and centralized controlled operation, wherein labor relations policies, wage rates and progression, fringe benefits, hiring and training procedures and other working conditions, are centrally determined. In such cases, Board policy favors systemwide units in public utilities. *New England Telephone Co.*, 242 NLRB 793 (1979).

Changes in technology, corporate, administrative, and operational policies have caused the toll technicians to lose their separate identity. In the central offices, the two groups of employees often work side by side using the same equipment performing similar tasks. They often work under com-

mon supervision, if not at the first level, then at the second. They are, in reality, communication technicians. Other than indicating they are represented by ORTT, then title of toll technician has lost its significance. Despite some differences created by the separate collective-bargaining agreements, the two groups of employees share a significant community of interest. The operations are highly integrated and there is evidence of employee transfers between the two groups. They are subject to common administrative and labor relations policies and similar working conditions.

While the bargaining history of ORTT cannot be disregarded, the significant changes occurring over the years have eliminated the basis on which the ORTT represented unit was deemed to be an appropriate unit.

The Board has found accretion of a separate unit of employees into an existing bargaining unit is appropriate where the reasons for the exclusion have been eliminated. *Southwestern Bell Telephone Co.*, 254 NLRB 451 (1981). As in *Southwestern Bell*, the employees represented by ORTT have lost the distinction which previously allowed them to be represented by another labor organization in a separate bargaining unit.

The Board will not impose a union through accretions where one group is not sufficiently predominant. *Boston Gas Co.*, 221 NLRB 628 (1975). Such an issue does not exist in the instant case as the CWA represented employees are overwhelmingly predominate. CWA represents over 35,000 employees throughout the Employer's 14-state service area, while ORTT represents approximately 500 employees in the Northwest. Thus, the ratio of CWA represented employees to ORTT represented employees is 70 to 1. The unit represented by CWA is more than sufficiently predominant to remove any question concerning overall representation in the instant matter. *Boston Gas Co.*, supra; *Special Machine & Engineering*, 282 NLRB 1410 (1987).

As the record evidence is sufficient to make a determination in this matter, the Employer's motions to reopen the record for additional testimony, oral argument, and/or submission of affidavits, and to correct the transcript are denied.

Based on all the above, I conclude that all toll communication technicians, antenna technicians, and power technicians which had constituted a separate bargaining unit represented by ORTT are an accretion to and part of the bargaining unit set forth in the CWA agreement. Accordingly,

ORDER

It is hereby ordered that the existing contractual bargaining unit represented by the Communication Workers of America, AFL-CIO, be, and hereby is, clarified to include all employees classified as toll communication technicians, antenna technicians, and power technicians employed in Washington, Oregon, and Northern Idaho, and who were previously represented by ORTT.